

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Amendment of Part 2 of the Commission's Rules to )  
Allocate Spectrum Below 3 GHz for Mobile and )  
Fixed Services to Support the Introduction of New )  
Advanced Wireless Services, including Third )  
Generation Wireless Systems )

ET Docket No. 00-258 }

Petition for Rulemaking of the Cellular )  
Telecommunications Industry Association )  
Concerning Implementation of WRC-2000: )  
Review of Spectrum and Regulatory )  
Requirements for IMT-2000 )

RM-9920

Amendment of the U. S. Table of )  
Frequency Allocations to Designate the )  
2500-2520/2670-2690 MHz Frequency Bands )  
for the Mobile Satellite Service )

RM-9911

To the Commission:

**OPPOSITION OF  
THE CATHOLIC TELEVISION NETWORK**

The Catholic Television Network ("CTN"), by its attorneys and pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby opposes the petition for reconsideration filed by the Satellite Industry Association ("SIA") in the above-captioned proceeding.<sup>1</sup> SIA seeks

<sup>1</sup> CTN is an association of Roman Catholic archdioceses and dioceses that operate many of the largest parochial school systems in the United States. CTN's members hold numerous ITFS licenses in the 2500-2690 MHz band for the distribution of educational, instructional, inspirational, and other important services to schools, colleges, parishes, community centers, hospitals, nursing homes, residences, and other locations. Collectively, CTN's members serve over 600,000 students and 4,000,000 households throughout America. CTN would be adversely affected by a Commission decision granting SIA the relief it seeks, and clearly has standing to file

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reconsideration of the Commission's denial of its request to reallocate a portion of the 2500-2690 MHz band to the mobile satellite service ("MSS").<sup>2</sup> For the reasons set forth below, the petition for reconsideration should be dismissed.

A petition for reconsideration must raise new facts or arguments upon which the Commission could base a modification of its initial determination, or allege that the Commission erred in fact or in law in making its initial determination.<sup>3</sup> SIA raises no new facts or arguments in support of its petition for reconsideration, but merely recites the arguments that it raised in its original petition for rule making and in comments.<sup>4</sup> Nor does SIA does allege that the Commission made any error of fact or law.<sup>5</sup> SIA simply disagrees with the Commission's conclusion. This is insufficient grounds for reconsideration, and the Commission should dismiss the petition for this reason alone.

In particular, SIA disagrees with the Commission's conclusion that "[s]haring between terrestrial and satellite systems would present substantial technical challenges."<sup>6</sup> However, this

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this opposition.

<sup>2</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third-Generation Wireless Systems, *Notice of Proposed Rule Making and Order*, FCC 00-455, ¶ 73 (rel. Jan. 5, 2001).

<sup>3</sup> Regulatory Policy Regarding the Direct Broadcast Satellite Service, *Memorandum Opinion and Order*, 94 FCC 2d 741, 755 (1983); Milledgeville, Georgia, *Memorandum Opinion and Order*, 10 FCC Rcd 7727 (1995).

<sup>4</sup> See SIA Petition for Reconsideration at 3 (reciting four reasons set forth in its petition for rule making); *id.* at 3-4 (four reasons raised by commenters).

<sup>5</sup> Section II of the Pet. for Recon. is styled, "The Commission has not provided a reasoned basis for denying SIA's petition for rulemaking," but the text acknowledges that the Commission, in fact, gave two reasons for its denial. See *id.* at 5.

<sup>6</sup> NPRM at ¶ 73; Pet. for Recon at 5.

conclusion is unassailable. On at least two separate occasions the Commission has found that satellite operations are technically incompatible with terrestrial operations. First, when the Commission proposed to reallocate the 1990-2010 MHz and 2170-2200 MHz bands to MSS, it concluded that sharing between MSS and fixed terrestrial service “is not feasible because of the potential for interference between the two services.”<sup>7</sup> Second, when the Commission subdivided the 18 GHz band between fixed satellite, mobile satellite, and terrestrial fixed services, it concluded that “co-frequency sharing between terrestrial fixed service and ubiquitously deployed FSS earth stations in the 18 GHz band is not feasible.”<sup>8</sup>

SIA erroneously believes that any sharing problems between its proposed MSS operations and existing and planned MMDS/ITFS deployment in the same bands can be overcome by geographical separation. SIA asserts that “the economics of MMDS/ITFS dictate that the service be deployed only in more densely populated urban areas.”<sup>9</sup> SIA is wrong. ITFS currently is deployed on a nationwide basis.<sup>10</sup> Both the Commission and the MMDS/ITFS industry stress the potential for MMDS/ITFS two-way service to bring broadband service to rural markets.<sup>11</sup> Therefore,

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<sup>7</sup> Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, *Notice of Proposed Rule Making*, 10 FCC Rcd 3230, 3232 (1995).

<sup>8</sup> Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use, *Report and Order*, 15 FCC Rcd 13430 at ¶ 17 (2000).

<sup>9</sup> Pet. For Recon. at 6.

<sup>10</sup> FCC, *Spectrum Study of the 2500-2690 MHz Band, Interim Report*, at 27 (Nov. 15, 2000).


<sup>11</sup> See *Interim Report, supra*, at 22 (“in rural or otherwise underserved markets, ITFS/MDS may be the sole provider of broadband service.”); Comments of Nucentrix Broadband Networks, Inc. at 5, Comments of the Catholic Television Network at 27, Comments of Sprint Corp. at 14, Comments of WorldCom at 4-5 (ET Docket No. 00-258, Feb. 22, 2001).

MMDS/ITFS and MSS would interfere with each other in the very areas that SIA asserts will see the greatest MSS use.<sup>12</sup>

WHEREFORE, since SIA's petition for reconsideration raises no new arguments, and the Commission's original conclusion that MSS cannot share the 2500-2690 MHz band with ITFS/MMDS incumbents was correct, the Commission should dismiss the petition for reconsideration forthwith.

Respectfully submitted,

THE CATHOLIC TELEVISION NETWORK



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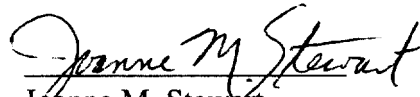
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<sup>12</sup> See Pet. For Recon. at 6 ("MSS phones will utilize MSS links in rural areas where there is no cellular or PCS service").

**CERTIFICATE OF SERVICE**

I, Joanne M. Stewart, a legal assistant in the law firm of Shook, Hardy and Bacon, do hereby certify that I have on this 22nd day of March 2001 caused to be mailed by first class mail, postage prepaid, a copy of the foregoing "**OPPOSITION OF THE CATHOLIC TELEVISION NETWORK**" to the following:

Satellite Industry Association  
225 Reinekers Lane, #600  
Alexandria, VA 22314

  
Joanne M. Stewart